



Iowa General Assembly

2007 Committee Briefings

Legislative Services Agency – Legal Services Division

<http://www.legis.state.ia.us/asp/Committees/Committee.aspx?id=211>

CRIMINAL CODE REORGANIZATION STUDY COMMITTEE

Meeting Dates: [October 30, 2007](#) | [September 24, 2007](#)

Purpose. *This compilation of briefings on legislative interim committee meetings and other meetings and topics of interest to the Iowa General Assembly, written by the Legal Services Division staff of the nonpartisan Legislative Services Agency, describes committee activities or topics. The briefings were originally distributed in the Iowa Legislative Interim Calendar and Briefing. Official minutes, reports, and other detailed information concerning the committee or topic addressed by a briefing can be obtained from the committee's Internet page listed above, from the Iowa General Assembly's Internet page at <http://www.legis.state.ia.us>, or from the agency connected with the meeting or topic described.*

CRIMINAL CODE REORGANIZATION STUDY COMMITTEE

October 30, 2007

Co-chairperson: Senator Keith Kreiman

Co-chairperson: Representative Kurt Swaim

Overview. The Criminal Code Reorganization Study Committee is charged with considering proposals for Criminal Code revisions, reorganization, and updates during the 2007 and 2008 Legislative Interims. The Committee has been authorized to meet for three days during the 2007 Legislative Interim and this was the second meeting.

Presentation by the Department of Corrections. Mr. Fred Scaletta, Public and Media Relations Director, Department of Corrections (DOC), summarized the impact of sentencing on offenders committed to the custody of DOC. In accordance with Code ch. 903A, an offender can earn time to reduce the maximum sentence for their offense. He also noted that an offender serving a category "B" sentence must serve 70 percent of the sentence before earned time is applied to reduce the remainder of the sentence. He noted that if an offender is serving a category "A" sentence, the offender earns 1.2 days for every day served in prison. He also informed the Committee that an offender will earn 1.2 days for every day served in jail prior to entering prison regardless if the offender is serving a category "A" sentence or category "B" sentence. Mr. Michael Savala, General Counsel, DOC, commented DOC can take away earned time if an offender violates any of the 43 rules established by DOC.

Discussion. Co-chairperson Kreiman asked if rule violations are referred to the local county attorney for prosecution. Mr. Savala responded that if the violation is criminal, then the violation is referred to the local county attorney for prosecution. Representative Clel Baudler asked how DOC calculates jail credit. Mr. Scaletta stated the county sheriff certifies the number of days an offender was confined in jail, and then DOC calculates the credit based upon the sheriff's certification. Committee discussion ensued about offender mental illness. The Committee was informed that 42 percent of all offenders have a mental illness, and 26 percent of all offenders have a severe mental illness.

Code Editor. Ms. Leslie Hickey, Iowa Code Editor, Legislative Services Agency (LSA), urged the Committee to delay the effective date of any proposed legislation reorganizing the Criminal Code so any potential mistakes or omissions can be corrected prior to implementation. She also stated the Code has doubled in size since the last Criminal Code reorganization in 1976. She emphasized reorganizing the Criminal Code has unique challenges that affect codification, including construing vague criminal statutes against the state (prosecution), prospective application of new or enhanced penalties, retroactive application of reduced penalties, and general savings clauses that preserve the meaning of criminal statutes that are a continuation of old law.

Drug Court Presentation. Judge Glenn Pille, District Judge, Fifth Judicial District, stated that drug court is an intensive supervision program that diverts offenders from prison. He emphasized that drug court would not work unless the county attorneys, judges, and defense attorneys agree to work together to help offenders. He also stated offenders in the Drug Court Program agree to forego certain due process rights, thus if an offender violates the rules of the program the judge has the authority to send the offender to jail immediately. Judge Richard Meadows, District Judge, Eighth Judicial District, stated drug courts are most effective targeting offenders who are drug addicts that become criminals to fuel their drug habit, not criminals who become drug addicts. Judge Fae Hoover-Grinde, District Judge, Sixth Judicial District,

emphasized the mental health component of drug court in the Sixth Judicial District. She also stated that the majority of offenders in drug court in the Sixth Judicial District are addicted to crack cocaine.

Iowa Trial Lawyers Presentation. Mr. Jake Feuerhelm and Mr. U.J. Booth, Iowa Trial Lawyers Association, asked the Committee to review areas of the Criminal Code relating to robbery, burglary, controlled substances, and driver's license suspension. Mr. Booth urged the Committee to review areas of the law where middle ground can be achieved.

Committee Discussion. The Committee agreed to divide future work into four distinct subcommittees. The first subcommittee will work on foundational issues such as definitions, culpability, defenses, and inchoate crimes (crimes which lead to other crimes). The second subcommittee will review proposals reorganizing the Criminal Code. The third subcommittee will work on sentencing classification and the placement of internal references relating to sentencing in the Code. The fourth subcommittee will review proposals relating to specific crimes.

Next Meeting. The date for the next meeting of the full Committee is to be announced, likely to be following the 2008 Legislative Session. Subcommittee meetings will be scheduled prior to the next meeting of the full Committee.

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CRIMINAL CODE REORGANIZATION STUDY COMMITTEE

September 24, 2007

Co-chairperson: Senator Keith Kreiman

Co-chairperson: Representative Kurt Swaim

Overview. The Criminal Code Reorganization Study Committee is charged with considering proposals for Criminal Code revisions, reorganizations, and updates during the 2007 and 2008 Legislative Interims. This is the first of three meetings authorized by the Legislative Council for the 2007 Legislative Interim.

Presentation by District Judge Michael Mullins. Judge Mullins, judicial branch, developed an Iowa Criminal Statutes Summary Chart and presented it to the Committee with his comments. Numerous changes to the Criminal Code over the years have made the Criminal Code much more complex. It is extremely important during guilty plea proceedings to inform the defendant of the minimum and maximum sentence the defendant could receive for any criminal offense. The Iowa Criminal Statutes Summary Chart is an attempt to encapsulate the three categories of sentencing: 1) requirements, 2) prohibitions, and 3) discretion. The chart does not cover simple misdemeanors except for a few anomalies. The chart does not give guidance for drug-related offenses because many offenders in drug court are under some type of deferred prosecution program. A judge is not involved in Board of Parole decisions but may write a letter about a defendant to the board.

Presentation by Mr. Paul Stageberg. Mr. Stageberg, Administrator of the Division of Criminal Juvenile Justice and Planning (CJJP) of the Department of Human Rights, briefed the Committee about the role of CJJP. The CJJP maintains data and statistics about prisoners and prison admissions and provides a prison population forecast. The CJJP has provided statistics to the Governor's Task Force on the Overrepresentation of African-Americans in Prison.

Committee Discussion. Co-chairperson Swaim envisioned the Committee possibly reviewing three areas: 1) substantive criminal law, 2) sentencing issues, and 3) special issues such as the overrepresentation of African-Americans in prison and the 2000-foot rule for sex offender residences. Co-chairperson Kreiman and Representative Clel Baudler emphasized that public safety is the paramount issue when reviewing the Criminal Code. Ms. Elizabeth Robinson, Board of Parole, concurred public safety is paramount and stated she has concerns about the applicability of the "special sentence" for certain offenders. Professor James Tomkovicz, University of Iowa College of Law, commented that the Committee should focus on substantive criminal law and sentencing and noted that clarity is essential when redrafting the Criminal Code. Mr. David Erickson, Department of Corrections, commented that the effects of mandatory minimums and whether more discretion should be given to judges should be reviewed, as well as the effectiveness of drug courts and mental health courts. Mr. Tom H. Miller, Attorney General's Office, stated the goal of the Committee should be to make Iowa a safer state and how resources are allocated to meet this goal. Representative Rick Olson commented on the need to balance public safety with justice. Senator Larry McKibben stated the Committee should first focus on placing the criminal laws into one portion of the Code and clear up the maze of criminal laws throughout the Code. Ms. Jennifer Miller, County Attorney's Association, commented the Code needs to be clarified. Co-chairperson Kreiman envisioned the Committee reorganizing the Criminal Code into one volume of the Code to enhance the readability of the Criminal Code. He also stated the Committee should eliminate outdated provisions and possibly review the Criminal Code substantively to ensure proportionality and to provide maximum flexibility.

Next Meeting Date. Tuesday, October 30, 2007, beginning at 10:00 a.m. in Room 102 of the State Capitol.

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